

By: Larson

H.B. No. 2578

A BILL TO BE ENTITLED

AN ACT

relating to the development of brackish groundwater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.053(e), Water Code, is amended to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(2-a) is consistent with the desired future conditions adopted under Section 36.108 for the relevant aquifers located in the regional water planning area as of the date the board most recently adopted a state water plan under Section 16.051 or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan;

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of modeled available groundwater in accordance with the guidelines provided by the

1 development board under Subsections (d) and (f);

2 (B) factors specific to each source of water
3 supply to be considered in determining whether to initiate a
4 drought response;

5 (C) actions to be taken as part of the response;
6 and

7 (D) existing major water infrastructure
8 facilities that may be used for interconnections in the event of an
9 emergency shortage of water;

10 (4) has specific provisions for water management
11 strategies to be used during a drought of record;

12 (5) includes but is not limited to consideration of
13 the following:

14 (A) any existing water or drought planning
15 efforts addressing all or a portion of the region;

16 (B) approved groundwater conservation district
17 management plans and other plans submitted under Section 16.054;

18 (C) all potentially feasible water management
19 strategies, including but not limited to improved conservation,
20 reuse, and management of existing water supplies, conjunctive use,
21 acquisition of available existing water supplies, and development
22 of new water supplies;

23 (D) protection of existing water rights in the
24 region;

25 (E) opportunities for and the benefits of
26 developing regional water supply facilities or providing regional
27 management of water supply facilities;

1 (F) appropriate provision for environmental
2 water needs and for the effect of upstream development on the bays,
3 estuaries, and arms of the Gulf of Mexico and the effect of plans on
4 navigation;

5 (G) provisions in Section 11.085(k)(1) if
6 interbasin transfers are contemplated;

7 (H) voluntary transfer of water within the region
8 using, but not limited to, regional water banks, sales, leases,
9 options, subordination agreements, and financing agreements; ~~and~~

10 (I) emergency transfer of water under Section
11 11.139, including information on the part of each permit, certified
12 filing, or certificate of adjudication for nonmunicipal use in the
13 region that may be transferred without causing unreasonable damage
14 to the property of the nonmunicipal water rights holder; and

15 (J) opportunities for and the benefits of
16 developing large-scale desalination facilities for brackish
17 groundwater or seawater that serve local or regional brackish
18 groundwater production zones identified under Section 16.060;

19 (6) identifies river and stream segments of unique
20 ecological value and sites of unique value for the construction of
21 reservoirs that the regional water planning group recommends for
22 protection under Section 16.051;

23 (7) assesses the impact of the plan on unique river and
24 stream segments identified in Subdivision (6) if the regional water
25 planning group or the legislature determines that a site of unique
26 ecological value exists;

27 (8) describes the impact of proposed water projects on

1 water quality; and

2 (9) includes information on:

3 (A) projected water use and conservation in the
4 regional water planning area; and

5 (B) the implementation of state and regional
6 water plan projects, including water conservation strategies,
7 necessary to meet the state's projected water demands.

8 SECTION 2. Section 16.060, Water Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (d) to read
10 as follows:

11 (a) The board shall undertake or participate in research,
12 feasibility and facility planning studies, investigations, and
13 surveys as it considers necessary to further the development of
14 cost-effective water supplies from seawater or brackish
15 groundwater desalination in the state.

16 (b) The board shall prepare a biennial progress report on
17 the implementation of seawater or brackish groundwater
18 desalination activities in the state and shall submit it to the
19 governor, lieutenant governor, and speaker of the house of
20 representatives not later than December 1 of each even-numbered
21 year. The report shall include:

22 (1) results of the board's studies and activities
23 relative to seawater or brackish groundwater desalination during
24 the preceding biennium;

25 (2) identification and evaluation of research,
26 regulatory, technical, and financial impediments to the
27 implementation of seawater or brackish groundwater desalination

1 projects;

2 (3) evaluation of the role the state should play in
3 furthering the development of large-scale seawater or brackish
4 groundwater desalination projects in the state; ~~and~~

5 (4) the anticipated appropriation from general
6 revenues necessary to continue investigating water desalination
7 activities in the state during the next biennium; and

8 (5) identification of local or regional brackish
9 groundwater production zones in areas of the state with moderate to
10 high availability and productivity of brackish groundwater that can
11 be used to reduce the use of fresh groundwater.

12 (d) The board shall consider the Brackish Groundwater
13 Manual for Texas Regional Water Planning Groups, and any updates to
14 the manual, when identifying areas of moderate to high availability
15 and productivity of brackish groundwater under Subsection (b)(5).

16 SECTION 3. Section 36.001, Water Code, is amended by adding
17 Subdivision (31) to read as follows:

18 (31) "Brackish groundwater" means groundwater that
19 has a salinity of more than 1,000 milligrams per liter but not more
20 than 10,000 milligrams per liter.

21 SECTION 4. Section 36.0015, Water Code, is amended to read
22 as follows:

23 Sec. 36.0015. PURPOSE. In order to provide for the
24 conservation, preservation, protection, recharging, development,
25 and prevention of waste of groundwater, and of groundwater
26 reservoirs or their subdivisions, and to control subsidence caused
27 by withdrawal of water from those groundwater reservoirs or their

1 subdivisions, consistent with the objectives of Section 59, Article
2 XVI, Texas Constitution, groundwater conservation districts may be
3 created as provided by this chapter. Groundwater conservation
4 districts created as provided by this chapter are the state's
5 preferred method of groundwater management through rules
6 developed, adopted, and promulgated by a district in accordance
7 with the provisions of this chapter.

8 SECTION 5. Subchapter D, Chapter 36, Water Code, is amended
9 by adding Section 36.1015 to read as follows:

10 Sec. 36.1015. MODEL RULES FOR BRACKISH GROUNDWATER
11 REGULATION. (a) The Texas Water Development Board shall develop
12 and make available model rules for the permitting of brackish
13 groundwater production. The model rules shall include:

14 (1) a prohibition on limiting the production of
15 brackish groundwater to achieve a desired future condition unless
16 the executive administrator has determined the amount of modeled
17 available groundwater specifically attributed to brackish
18 groundwater;

19 (2) a minimum term of 30 years for a permit issued for
20 a well that produces brackish groundwater;

21 (3) a prohibition on reducing the authorized amount of
22 brackish groundwater that may be withdrawn from a well during the
23 term of the permit; and

24 (4) other provisions that the Texas Water Development
25 Board considers appropriate to encourage the development of
26 brackish groundwater desalination projects.

27 (b) The Texas Water Development Board shall consider the

1 Brackish Groundwater Manual for Texas Regional Water Planning
2 Groups, and any updates to the manual, in developing the rules under
3 Subsection (a).

4 SECTION 6. Section 36.1071(a), Water Code, is amended to
5 read as follows:

6 (a) Following notice and hearing, the district shall, in
7 coordination with surface water management entities on a regional
8 basis, develop a management plan that addresses the following
9 management goals, as applicable:

- 10 (1) providing the most efficient use of groundwater;
- 11 (2) controlling and preventing waste of groundwater;
- 12 (3) controlling and preventing subsidence;
- 13 (4) addressing conjunctive surface water management
14 issues;
- 15 (5) addressing natural resource issues;
- 16 (6) addressing drought conditions;
- 17 (7) addressing conservation, recharge enhancement,
18 rainwater harvesting, precipitation enhancement, or brush control,
19 where appropriate and cost-effective; ~~and~~
- 20 (8) addressing the desired future conditions adopted
21 by the district under Section 36.108; and

22 (9) identifying goals to pursue the reduction of fresh
23 groundwater use through brackish groundwater desalination
24 strategies in production zones identified under Section 16.060.

25 SECTION 7. Section 36.108(d-2), Water Code, is amended to
26 read as follows:

27 (d-2) The desired future conditions proposed under

1 Subsection (d) must provide a balance between the highest
2 practicable level of groundwater production and the conservation,
3 preservation, protection, recharging, and prevention of waste of
4 groundwater and control of subsidence in the management area. To
5 reduce reliance on fresh groundwater resources, the desired future
6 condition must allow the highest level of brackish groundwater
7 production in production zones identified under Section
8 16.060. This subsection does not prohibit the establishment of
9 desired future conditions that provide for the reasonable long-term
10 management of groundwater resources consistent with the management
11 goals under Section 36.1071(a). The desired future conditions
12 proposed under Subsection (d) must be approved by a two-thirds vote
13 of all the district representatives for distribution to the
14 districts in the management area. A period of not less than 90 days
15 for public comments begins on the day the proposed desired future
16 conditions are mailed to the districts. During the public comment
17 period and after posting notice as required by Section 36.063, each
18 district shall hold a public hearing on any proposed desired future
19 conditions relevant to that district. During the public comment
20 period, the district shall make available in its office a copy of
21 the proposed desired future conditions and any supporting
22 materials, such as the documentation of factors considered under
23 Subsection (d) and groundwater availability model run results.
24 After the public hearing, the district shall compile for
25 consideration at the next joint planning meeting a summary of
26 relevant comments received, any suggested revisions to the proposed
27 desired future conditions, and the basis for the revisions.

1 SECTION 8. Sections 36.117(b) and (c), Water Code, are
2 amended to read as follows:

3 (b) Except as provided by this section, a district shall
4 provide an exemption from the district requirement to obtain a
5 permit for:

6 (1) drilling or operating a well used solely for
7 domestic use or for providing water for livestock or poultry if the
8 well is:

9 (A) located or to be located on a tract of land
10 larger than 10 acres; and

11 (B) drilled, completed, or equipped so that it is
12 incapable of producing more than 25,000 gallons of groundwater a
13 day;

14 (2) drilling a water well used solely to supply water
15 for a rig that is actively engaged in drilling or exploration
16 operations for an oil or gas well permitted by the Railroad
17 Commission of Texas provided that the person holding the permit is
18 responsible for drilling and operating the water well and the water
19 well is located on the same lease or field associated with the
20 drilling rig; ~~or~~

21 (3) drilling a water well authorized under a permit
22 issued by the Railroad Commission of Texas under Chapter 134,
23 Natural Resources Code, or for production from the well to the
24 extent the withdrawals are required for mining activities
25 regardless of any subsequent use of the water; or

26 (4) drilling or operating a well associated with a
27 desalination project located in a brackish groundwater production

1 zone identified under Section 16.060, unless a district has adopted
2 the model rules for the permitting of brackish groundwater wells
3 developed by the Texas Water Development Board.

4 (c) A district may not restrict the production of water from
5 any well described by Subsection (b)(1) or (b)(4).

6 SECTION 9. This Act takes effect September 1, 2013.